

CHAPTER FOUR SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

The trend analysis of incarceration sentences in the past five years indicates a declining tendency. The number of admissions in FY 2005 decreased by 100 or 1.7% when compared with that of FY 2004 and 4.1% compared with that of FY 2001 (Figure 43). The prison admission patterns by month in the past five years are presented in Table 34.

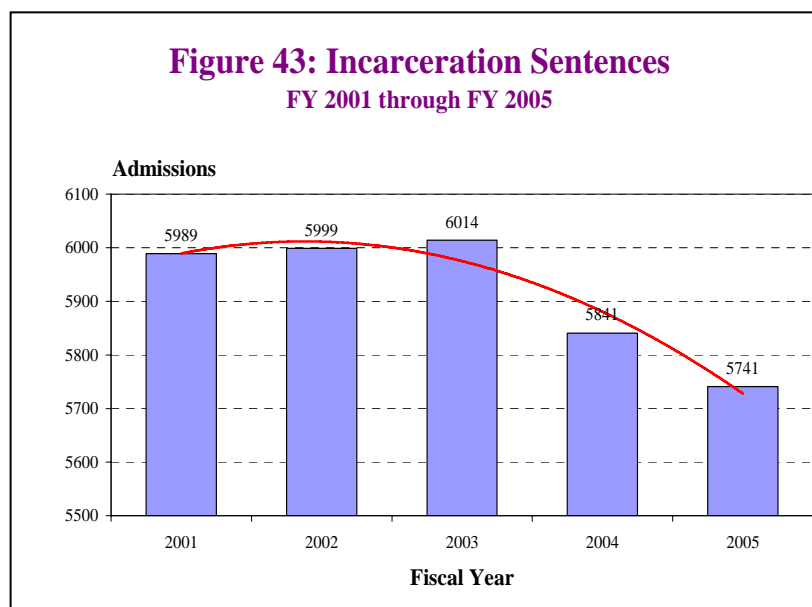


Table 34: Prison Admissions by Month

Month by Fiscal Year	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
July	559	489	523	525	439
August	616	517	569	441	497
September	501	339	521	460	501
October	463	462	577	500	413
November	440	558	479	418	466
December	384	533	475	550	441
January	446	501	472	445	407
February	488	487	440	435	471
March	584	542	460	560	575
April	443	531	520	491	491
May	523	490	466	469	486
June	542	550	512	547	554
Total	5,989	5,999	6,014	5,841	5,741

Table 35 illustrates the types of admissions to prison during the past five years. The admissions of new court commitments in FY 2005 decreased by 1.5% compared with FY 2004 and 7% compared with FY 2001. The number of probation condition violators admitted to prison continued growing in FY 2005, increasing by 34.1% over that of FY 2001 and representing the highest in the past five years. Probation violators with new sentences and parole/post-release supervision condition violators admitted to prison in FY 2005 represented the lowest admission rates from FY 2001 through FY 2005, indicating a decrease of 37.9% and

17.4%, respectively, compared with those in FY 2001. The number of parole/post-release violators with new sentences in FY 2005 increased by 11.6% over that of FY 2004 and 12.4% over that of FY 2001. The largest percentage decrease is identified in the number of conditional release violators, which decreased by 73.4% in the past five years. The number of conditional release violators with new sentences was very small and has been decreasing over the past five years, as well. As pre-guideline sentences are reducing, these two types of offenders will be eventually out of the prison system.

Table 35: Comparison of Prison Admissions by Type

Admission Type	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2005-2001 % Difference
New Court Commitment	1,601	1,702	1,649	1512	1,489	-7.0%
Probation Violator	1,330	1,454	1,497	1709	1,783	34.1%
Probation Violator with New Sentence	203	221	205	148	126	-37.9%
Parole/Postrelease Violator	2,552	2,396	2,406	2253	2,109	-17.4%
Parole/Postrelease Violator with New Sent	145	136	144	146	163	12.4%
Conditional Release Violator	109	57	51	39	29	-73.4%
Conditional Release Violator with New Sent	10	3	4	3	3	-70.0%
Other Types*	39	30	58	31	39	0.0%
Total	5,989	5,999	6,014	5,841	5,741	-4.1%

* Other admissions include inter-jurisdictional transfers, pre-sentence evaluations, return from court appearances, and returned escapees.

Table 36 reveals the admission trend of incarceration drug sentences by severity level in the past five years. In FY 2005, admissions at all drug levels indicated a decrease from those of the previous year, with the exception of admissions at drug level 4, which increased by 7.3% compared with FY 2004 and 19.2% compared with FY 2001. However, the total admissions of drug offenders in FY 2005 demonstrated a decrease of 5.1% and 1.5%, respectively, from those in FY 2004 and FY 2001.

Further analysis of the drug incarceration sentences indicates that the number of drug severity level 1 continued decreasing during FY 2005 with a decrease of 18.3% from that of FY 2004 and a decrease of 20.4% from that of FY 2003, though it still increased by 73.1% over that of FY 2001. The largest decrease was found at drug severity level 3 during FY 2005, which decreased by 199 admissions or 27.8% from that of FY 2001. Admissions at drug level 2 decreased by

26.3% and 19% compared with those of FY 2004 and FY 2001 respectively (Table 36).

Table 37 demonstrates that the total nondrug admissions to prison dropped all the way in the past five years, decreased by 0.3% from that of FY 2004 and by 5.1% from that of FY 2001. The most notable decrease of nondrug sentences in the past five years were identified at level 2 (a decrease of 18.8%), level 4 (a decrease of 15.2%), level 5 (a decrease of 22.2%) and level 6 (a decrease of 23.7%), which contain offenders

with the most serious crimes. Offgrid sentences in FY 2005 indicated a decreasing pattern, too, a decrease of 10.8% from the previous year and a decrease of 8.3% from FY 2001.

Nevertheless, offenders at nondrug severity level 10 in FY 2005 increased by 21.1% when compared with the data of FY 2001. Nongrid offenders primarily consist of DUI violators (196 offenders), demonstrating the largest increase in percentage during the past five years (an increase of 1,772.7%).

Table 36: Comparison of Drug Prison Admissions by Severity Level

Severity Level	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2005-2004 % Difference	FY 2005-2001 % Difference
D1	108	227	235	229	187	-18.3%	73.1%
D2	163	186	204	179	132	-26.3%	-19.0%
D3	715	628	617	567	516	-9.0%	-27.8%
D4	655	676	768	728	781	7.3%	19.2%
Total	1,641	1,717	1,824	1,703	1,616	-5.1%	-1.5%

Table 37: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2005-2004 % Difference	FY 2005-2001 % Difference
N1	99	92	113	108	96	-11.1%	-0.3%
N2	138	121	121	99	112	13.1%	-18.8%
N3	612	645	604	559	562	0.5%	-8.2%
N4	145	162	155	151	123	-18.5%	-15.2%
N5	751	671	718	586	584	-0.3%	-22.2%
N6	207	195	208	171	158	-7.6%	-23.7%
N7	889	890	864	825	809	-1.9%	-9.0%
N8	454	449	424	458	462	0.9%	1.8%
N9	789	773	703	728	737	1.2%	-6.6%
N10	194	227	206	261	235	-10.0%	21.1%
Offgrid	36	38	49	37	33	-10.8%	-8.3%
Nongrid	11	5	5	148	206	39.2%	1,772.7%
Unknown	23	14	20	7	8	14.3%	-65.2%
Total	4,348	4,282	4,190	4,138	4,125	-0.3%	-5.1%

PROBATION SENTENCES

The total trend of probation sentences in the past five years is exhibited in Figure 44. In FY 2005, the number of probation sentences indicated an increase of almost 8% (568 sentences) compared with that of FY 2004 and an increase of 26.7% (1,638 sentences) compared with that of FY 2001, representing the largest number of probation sentences in the past five years.

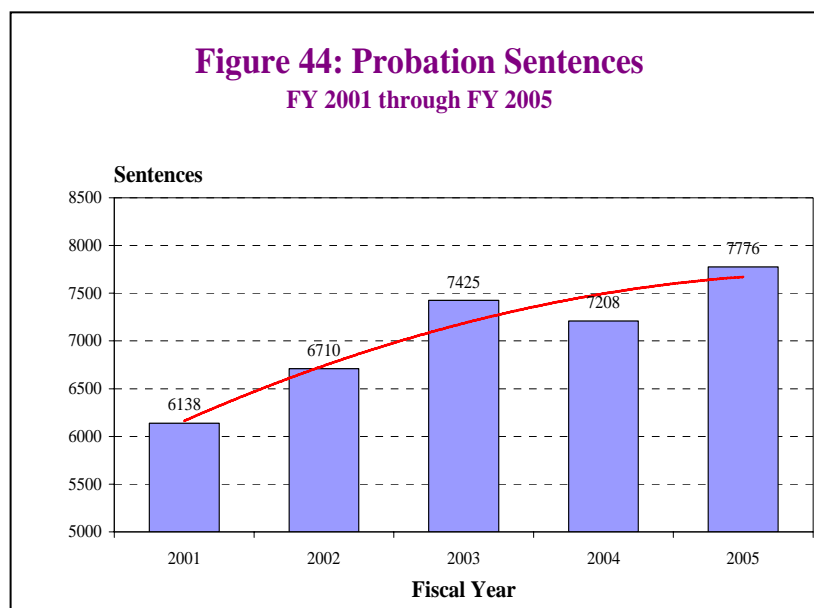


Table 38 presents the sentencing trend of the probation sentences by severity levels for drug offenses during the past five years. The analysis shows that drug probation sentences at all levels in FY 2005 increased except sentences at drug severity level 2. The largest percentage increase of probation sentences for drug offenses fell on drug severity level 1, an increase of 236.1% and 611.8%, respectively, compared to those of FY 2004 and FY 2001. This significant increase at drug severity level 1 reflects the implementation of the Kansas Supreme Court's Ruling on *State vs. McAdam* issued on January 30, 2004 and the Kansas Supreme Court's decision on *State vs. Campbell* issued in January 2005, wherein convictions under K.S.A. 65-4159 may be sentenced at drug severity level 1 with length of sentence at drug severity level 3 and convictions under K.S.A. 65-7006 may be sentenced at drug severity level 1 with length of sentence at drug severity level 4.

The probation sentences in FY 2005 increased by 51% at drug severity level 4 and by 28.8% at drug severity level 3 when compared with those of FY 2001. The probation sentences at drug severity level 2 decreased by 54.5% from that of FY 2004 and 51.2% from that of FY 2001. The total number of drug probation sentences presents a growing tendency with an increase of 13.8% over that of FY 2004 and an increase of 47.9% over that of FY 2001.

Nondrug probation sentences in the past five years revealed an increasing pattern, as well. In FY 2005 the total number of nondrug probation sentences increased by 4.9% when compared with that of FY 2004 and 17.3% when compared with that of FY 2001. In number, the largest increase of nondrug probation sentences in the past five years fell within nondrug severity level 7 (an increase of 155 sentences), nondrug severity level 8 (an increase of 111 sentences) and

nondrug severity level 9 (an increase of 120 sentences). While the largest increase in both percentage and number in FY 2005 is found on nongrid sentences, indicating an

increase of 80.7% or 367 sentences compared with the data observed in FY 2001 (Table 39).

**Table 38: Comparison of Probation Drug Sentences by Severity Level
FY 2001 through FY 2005**

Severity Level	FY 2001	FY 2002	FY 2003	FY2004	FY2005	FY 2005-2004 % Difference	FY 2005-2001 % Difference
D1	17	49	44	36	121	236.1%	611.8%
D2	41	44	71	44	20	-54.5%	-51.2%
D3	507	555	566	633	653	3.2%	28.8%
D4	1,313	1,498	1,767	1,728	1,983	14.8%	51.0%
Total	1,878	2,146	2,448	2,441	2,777	13.8%	47.9%

**Table 39: Comparison of Probation Nondrug Sentences by Severity Level
FY 2001 through FY 2005**

Severity Level	FY 2001	FY 2002	FY 2003	FY 2004	FY2005	FY 2005-2004 % Difference	FY 2005-2001 % Difference
N1	3	5	5	7	4	-42.9%	33.3%
N2	2	2	4	0	0	N/A	-100.0%
N3	32	37	61	48	46	-4.2%	43.8%
N4	15	16	17	13	4	-69.2%	-73.3%
N5	180	225	202	212	223	5.2%	23.9%
N6	89	76	91	62	61	-1.6%	-31.5%
N7	898	962	1024	934	1,053	12.7%	17.3%
N8	682	756	825	781	793	1.5%	16.3%
N9	1,419	1,451	1,521	1,430	1,539	7.6%	8.5%
N10	485	546	538	557	454	-18.5%	-6.4%
Nongrid	455	488	689	723	822	13.7%	80.7%
Total	4,260	4,564	4,977	4,767	4,999	4.9%	17.3%

PRISON POPULATION FORECASTS

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2005, and the input assumptions formulated by the experts from various criminal justice agencies, who are the members of the Prison Population Consensus Group. The prison population projections predict that the offenders incarcerated in state prisons will reach 9,749 by June 30, 2015, which indicates an increase of 703 inmates or 7.8% over the actual prison population on the same date of year 2005. Although the total number of admissions has dropped compared with those of the past five years, a combination of developing admission trends with the impact of the pronounced stacking effect has been resulting in a slow but continual growth in the state's prison population.

Prison inmate population projections by severity levels are presented in Table 40. The largest increase in both number and

percentage of incarcerated populations in the next ten years fall on drug severity level 4 (an increase of 195 offenders or 33.7%) followed by nondrug severity level 1 (an increase of 182 offenders or 23.8%) and nondrug severity level 3 (an increase of 170 offenders or 12.7%). The largest decrease in number falls on drug severity level 1 (a decrease of 127 offenders or 20%), while the largest decrease in percentage falls on drug severity level 2 (a decrease of 22.4% or 68 offenders). The overall increase of drug offenders to be incarcerated indicates a small number (72 offenders) over the ten-year forecast period. This reflects the penalty change resulting from Senate Bill 123 passed during the 2003 Legislative Session, which has enhanced penalties by diverting drug possession offenders to drug treatment programs rather than incarcerating them in prison. Figure 45 depicts the trend of the actual and projected prison population from FY 1996 through FY 2015.

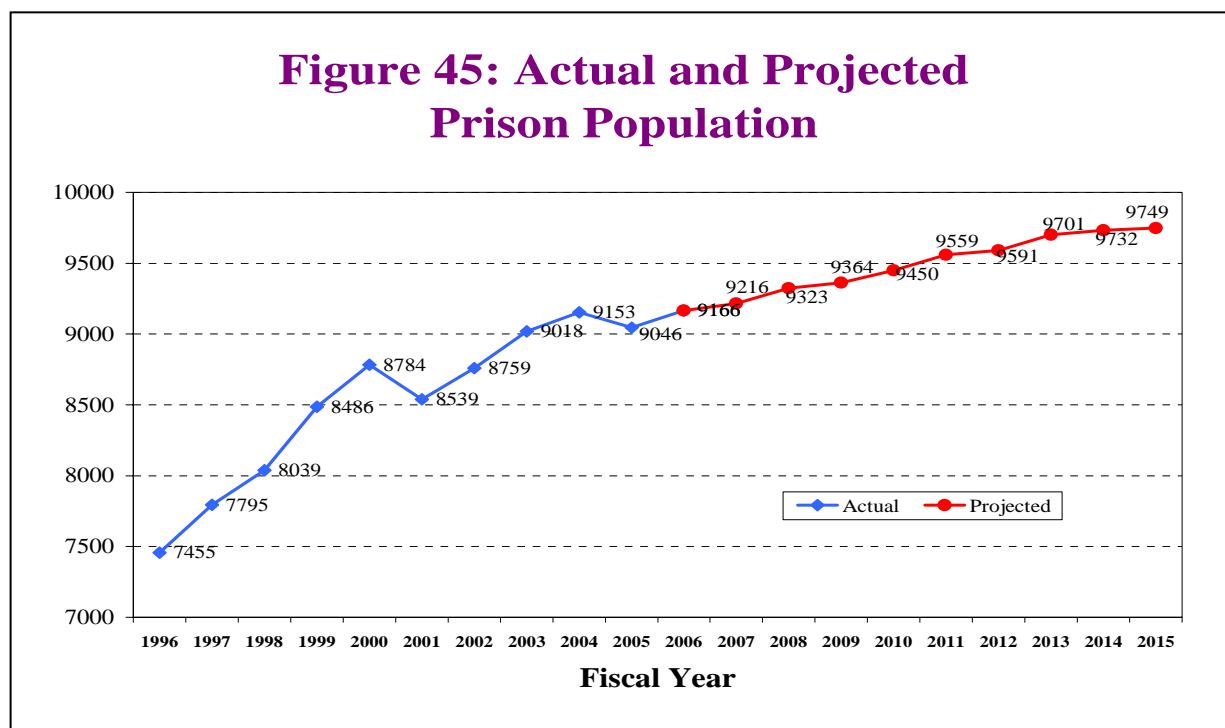


Table 40: FY 2006 Adult Inmate Prison Population Projections

Severity Level	June 30 2005*	June 30 2006	June 30 2007	June 30 2008	June 30 2009	June 30 2010	June 30 2011	June 30 2012	June 30 2013	June 30 2014	June 30 2015	Total # Increase	Percent Increase
D1	635	595	579	560	563	564	562	548	525	524	508	-127	-20.0%
D2	303	248	243	229	228	235	224	230	231	224	235	-68	-22.4%
D3	452	465	459	471	461	468	490	492	509	528	524	72	15.9%
D4	578	605	685	728	736	763	751	755	768	776	773	195	33.7%
N1	765	792	805	823	855	875	885	900	914	935	947	182	23.8%
N2	454	459	461	468	482	488	484	489	479	476	481	27	5.9%
N3	1337	1337	1352	1355	1379	1387	1404	1424	1445	1468	1507	170	12.7%
N4	265	247	253	265	262	273	278	287	288	287	294	29	10.9%
N5	993	989	960	954	956	977	993	978	968	994	950	-43	-4.3%
N6	147	144	149	145	155	158	139	152	151	168	161	14	9.5%
N7	817	851	874	899	850	837	821	843	867	839	858	41	5.0%
N8	232	261	256	266	253	245	264	270	308	279	262	30	12.9%
N9	268	293	271	289	294	294	313	290	319	306	297	29	10.8%
N10	44	59	67	61	69	77	71	70	71	71	70	26	59.1%
OFF GRID	697	716	723	738	739	736	747	748	748	763	772	75	10.8%
Condition Parole/PIS Violators	1059	1105	1079	1072	1082	1073	1133	1115	1110	1094	1110	51	4.8%
Total	9046	9166	9216	9323	9364	9450	9559	9591	9701	9732	9749	703	7.8%

*. Based on the actual prison population on that date (for the purpose of forecasting, nongrid and missing are analyzed and assigned to each level).

CUSTODY CLASSIFICATION PROJECTION

The prison population projections forecast the total beds needed over the ten-year forecast period, while custody classification projections predict the kinds of beds needed for custody in the next ten years. As demonstrated in Table 41, the overall custodial classification projections indicate that 230 unclassified beds, 3,046 minimum beds, 3,729 medium beds, 1,413 maximum beds and 748 special management beds will be needed by the end of FY 2006. The total projected prison beds, by the end of FY 2015, will include 251 unclassified beds, 3,189 minimum beds, 4,011 medium beds, 1,477 maximum beds and 821 special management beds.

Figure 46 illustrates the projected percentage distributions of the custodial classifications by gender, which demonstrates a significant difference between male and female offenders. Females will need 3.7% unclassified, 49.8% minimum, 27.6% medium, 10.7% maximum

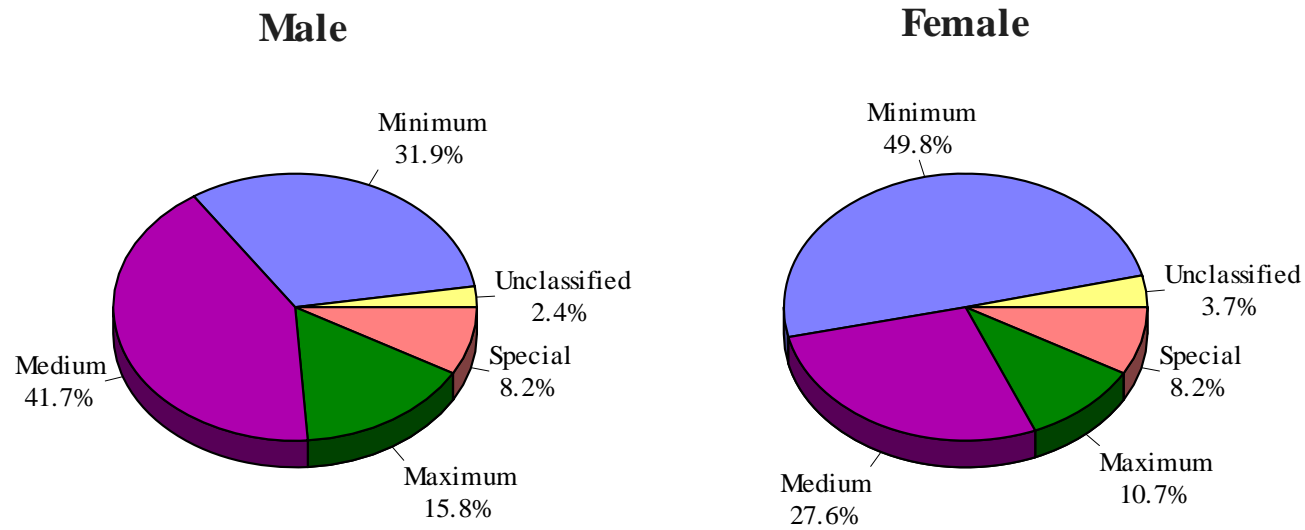
custody and 8.2% special management beds by the end of FY 2006. While males will need 2.4% unclassified, 31.9% minimum, 41.7% medium, 15.8% maximum custody and 8.2% special management beds by the end of FY 2006. These classification percentages of male and female offenders remain fairly constant during the ten-year forecasting period.

For female offenders, medium beds indicate an increase of 19, minimum beds shows an increase of 16, special management beds will increase by 17 and the other types of beds remain constant over the ten-year forecast period. The largest increase for males is the medium custody beds, which will increase by 263. Minimum custody beds for males will increase by 127 and maximum beds will go up by 65 beds. Special management beds for male offenders indicate an increase of 56 beds and the smallest increase of beds for male offenders are the unclassified beds during the ten-year forecast period. This forecast assumes no changes in custody practice over the ten-year forecast period.

Table 41: Ten Years Custody Classification Projection

June 30 Each Year	Unclassified	Minimum	Medium	Maximum	Special	Total
2006	230	3046	3729	1413	748	9166
2007	224	3015	3720	1458	799	9216
2008	220	3051	3764	1458	830	9323
2009	232	3049	3812	1458	813	9364
2010	239	3118	3871	1442	780	9450
2011	242	3152	3907	1454	804	9559
2012	236	3194	3904	1433	824	9591
2013	265	3276	3889	1435	836	9701
2014	221	3254	3970	1456	831	9732
2015	251	3189	4011	1477	821	9749

Figure 46: Projected Percentage Distribution of Custody Classification by Gender



Based on the projected prison population on June 30, 2006 (male = 8,493 and female = 673).